

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation of:

ROGENE ANN BASTINGS,
a.k.a. ROGENE ANNE MELLEN,
a.k.a. ROGENE ANNE CLARKSON
20016 Fallon Avenue
Lakewood, CA 90715

Registered Nurse License No. 415570

Respondent

Case No. 2006 - 202

DEFAULT DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **October 3, 2008**.

IT IS SO ORDERED **September 3, 2008**.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation
12 Against:

12 **ROGENE ANN BASTINGS,**
13 **a.k.a. ROGENE ANNE MELLEN,**
14 **a.k.a. ROGENE ANNE CLARKSON**
15 20016 Flallon Avenue
16 Lakewood, CA 90715

15 Registered Nurse License No. 415570

16 Respondent.
17

Case No. 2006-202

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18
19 **FINDINGS OF FACT**

20 1. On or about March 24, 2008, Complainant Ruth Ann Terry, M.P.H, R.N.,
21 in her official capacity as the Executive Officer of the Board of Registered Nursing (Board),
22 filed Petition to Revoke Probation No. 2006-202 against Rogene Ann Bastings, a.k.a. Rogene
23 Anne Mellen, a.k.a. Rogene Anne Clarkson (Respondent) before the Board.

24 2. On or about August 31, 1987, the Board issued Registered Nurse License
25 No. 415570 to Respondent. The Registered Nurse License was in full force and effect at all
26 times relevant to the charges brought herein and will expire on October 31, 2008, unless
27 renewed.

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1 3. On or about April 4, 2008, Thurman Peden, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke
3 Probation No. 2006-202, Statement to Respondent, Notice of Defense, Recommended
4 Guidelines for Disciplinary Orders and Conditions of Probation, Request for Discovery, and
5 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
6 with the Board, which was and is: 20016 Flallon Avenue, Lakewood, CA 90715. A copy of the
7 Petition to Revoke Probation is attached as Exhibit A, and is incorporated herein by reference.

8 4. Service of the Petition to Revoke Probation was effective as a matter of
9 law under the provisions of Government Code section 11505, subdivision (c).

10 5. In or about April 2008, Respondent signed and returned the domestic
11 return receipt attached to the certified mail package containing the aforementioned documents.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the
14 respondent files a notice of defense, and the notice shall be deemed a specific
15 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service
17 upon her of the Petition to Revoke Probation, and therefore waived her right to a hearing on the
18 merits of Petition to Revoke Probation No. 2006-202.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at
21 the hearing, the agency may take action based upon the respondent's express
22 admissions or upon other evidence and affidavits may be used as evidence
without any notice to respondent.

23 9. Pursuant to its authority under Government Code section 11520, the Board
24 finds Respondent is in default. The Board will take action without further hearing and, based on
25 the evidence on file herein, finds that the allegations in Petition to Revoke Probation No.
26 2006-202 are true.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent has subjected her
3 Registered Nurse License No. 415570 to discipline.

4 2. A copy of the Petition to Revoke Probation is attached.

5 3. The agency has jurisdiction to adjudicate this case by default.

6 4. The Board is authorized to revoke Respondent's Registered Nurse License
7 based upon the following violations alleged in the Petition to Revoke Probation:

8 A. Violation of Term 2 of Probation - Failure to Comply with Probationary
9 Terms;

10 B. Violation of Term 16 of Probation - Failure to Abstain from the Use of
11 Alcohol;

12 C. Violation of Term 17 of Probation - Failure to Submit to Tests and
13 Samples.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 415570, heretofore issued to Respondent Rogene Ann Bastings, a.k.a. Rogene Anne Mellen, a.k.a. Rogene Anne Clarkson, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on OCTOBER 3, 2008.

It is so ORDERED SEPTEMBER 3, 2008

LaTranene W. Tate

FOR THE BOARD OF REGISTERED NURSING

60298571.wpd

DOJ docket number:LA2008600302

Attachment:

Exhibit A: Petition to Revoke Probation No.2006-202

Exhibit A
Petition to Revoke Probation No. 2006-202

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS,
Supervising Deputy Attorney General
3 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2006-202

12 **ROGENE ANN BASTINGS,**
13 **a.k.a. ROGENE ANNE MELLEN,**
a.k.a. ROGENE ANNE CLARKSON
14 20016 Flallon Avenue
Lakewood, CA 90715

**PETITION TO REVOKE
PROBATION**

15
16 Registered Nurse License No. 415570

17 Respondent.

18 Ruth Ann Terry, M.P.H., R.N. (Complainant) alleges:

19 **PARTIES**

20 1. Complainant brings this Petition to Revoke Probation solely in her official
21 capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer
22 Affairs (Board).

23 2. On or about August 31, 1987, the Board issued Registered Nurse License
24 No. 415570 to Rogene Anne Bastings, a.k.a. Rogene Anne Mellen, a.k.a. Rogene Anne Clarkson
25 (Respondent). The license was in effect at all times relevant to the charges brought herein, and
26 will expire on October 31, 2008, unless renewed.

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3. In a disciplinary action entitled "In the Matter of the Accusation Against Rogene Anne Bastings, a.k.a. Rogene Anne Mellen, a.k.a. Rogene Anne Clarkson," Case No. 2006-202, the Board issued a Decision adopting the Stipulated Settlement and Disciplinary Order, effective March 5, 2007, in which Respondent's Registered Nurse License was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of three (3) years subject to certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration .

PETITION TO REVOKE PROBATION

6. Grounds exist for revoking the probation and reimposing the order of revocation of Respondent's Registered Nurse License in that Respondent has violated the terms and conditions of probation as follows:

Condition 2. Comply with the Board's Probation Program. Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

1 Upon successful completion of probation, Respondent's license shall be fully
2 restored.

3 **Condition 16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.**

4 Respondent shall completely abstain from the possession, injection or consumption by any route
5 of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except
6 when the same are ordered by a health care professional legally authorized to do so as part of
7 documented medical treatment. Respondent shall have sent to the Board, in writing and within
8 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
9 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
10 medication will no longer be required, and the effect on the recovery plan, if appropriate.

11 Respondent shall identify for the Board a single physician, nurse practitioner or
12 physician assistant who shall be aware of Respondent's history of substance abuse and will
13 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
14 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
15 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
16 condition. If any substances considered addictive have been prescribed, the report shall identify a
17 program for the time limited use of any such substances.

18 The Board may require the single coordinating physician, nurse practitioner, or
19 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
20 addictive medicine.

21 **Condition 17. Submit to Tests and Samples.** Respondent, at her expense, shall

22 participate in a random, biological fluid testing or a drug screening program which the Board
23 approves. The length of time and frequency will be subject to approval by the Board.

24 Respondent is responsible for keeping the Board informed of Respondent's current telephone
25 number at all times. Respondent shall also ensure that messages may be left at the telephone
26 number when she is not available and ensure that reports are submitted directly by the testing
27 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
28 to the Board by the program and Respondent shall be considered in violation of probation.

1 In addition, Respondent, at any time during the period of probation, shall fully
2 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
3 tests and samples as the Board or its representatives may require for the detection of alcohol,
4 narcotics, hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized
6 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
7 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
8 from practice pending the final decision on the petition to revoke probation or the accusation.
9 This period of suspension will not apply to the reduction of this probationary time period.

10 If Respondent fails to participate in a random, biological fluid testing or drug
11 screening program within the specified time frame, Respondent shall immediately cease practice
12 and shall not resume practice until notified by the Board. After taking into account documented
13 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
14 Board may suspend Respondent from practice pending the final decision on the petition to
15 revoke probation or the accusation. This period of suspension will not apply to the reduction of
16 this probationary time period.

17 **FIRST CAUSE TO REVOKE PROBATION**

18 **(Failure to Comply with Probationary Terms)**

19 7. Respondent's probation is subject to revocation under Probation Condition
20 2, in that she failed to fully comply with the conditions of the Probation Program established by
21 the Board and cooperate with representatives of the Board in its monitoring and investigation of
22 the Respondent's compliance with the Board's Probation Program. The circumstances are as
23 described below and are incorporated herein by reference.

24 **SECOND CAUSE TO REVOKE PROBATION**

25 **(Failure to Abstain from the Use of Alcohol)**

26 8. Respondent's probation is subject to revocation under Probation Condition
27 16, in that she was tested positive for alcohol on or about the following dates: 8/1/07 and
28 7/5/07.

1 **THIRD CAUSE TO REVOKE PROBATION**

2 **(Failure to Submit to Tests and Samples)**

3 9. Respondent's probation is subject to revocation under Probation Condition
4 17, in that she failed to submit to random testing on the following dates: 1/2/08, 12/27/07 and
5 11/26/07.

6 10. Respondent's probation is subject to revocation under Probation Condition
7 17, in that she failed to call to schedule tests on the following dates: 1/10/08, 1/9/08, 1/8/08,
8 1/7/08, 1/4/08, 1/3/08, 12/31/07, 12/13/07, 11/30/07, 11/29/07, 11/28/07, 11/27/07, 11/26/07,
9 11/23/07, 11/22/07, 11/21/07, 11/20/07, 11/19/07.

10 **PRAYER**


11 **WHEREFORE**, Complainant requests that a hearing be held on the matters
12 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking the probation that was granted by the Board of Registered
14 Nursing in Case No. 2006-202 and imposing the disciplinary order that was stayed thereby
15 revoking Registered Nurse License No. 415570, issued to Rogene Anne Bastings, a.k.a. Rogene
16 Anne Mellen, a.k.a. Rogene Anne Clarkson;

17 2. Revoking or suspending Registered Nurse License No. 415570, issued to
18 Rogene Anne Bastings, a.k.a. Rogene Anne Mellen, a.k.a. Rogene Anne Clarkson;

19 3. Taking such other and further action as deemed necessary and proper.
20

21 DATED: 3/24/08

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23 
24 RUTH ANN PERRY, M.P.H., R.N.
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROGENE ANNE BASTINGS
a.k.a. ROGENE ANNE MELLEN
a.k.a. ROGENE ANNE CLARKSON
20016 Flallon Avenue
Lakewood, CA 90715

Registered Nurse License No. 415570

Respondent.

Case No. 2006-202

OAH No. L2006060304

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, as its Decision in this matter.

This Decision shall become effective on April 5, 2007.

It is so ORDERED March 5, 2007.

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING

BILL LOCKYER, Attorney General
of the State of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General
LINDA L. SUN, State Bar No. 207108
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Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROGENE ANNE BASTINGS
a.k.a. ROGENE ANNE MELLEN
a.k.a. ROGENE ANNE CLARKSON
20016 Fallon Avenue
Lakewood, CA 90715

Registered Nurse License No. 415570

Respondent.

Case No. 2006-202

OAH No. L2006060304

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
the Board of Registered Nursing (Board). She brought this action solely in her official capacity
and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by
Linda L. Sun, Deputy Attorney General.

2. Rogene Anne Bastings a.k.a. Rogene Anne Mellen a.k.a. Rogene Anne
Clarkson (Respondent) is represented in this proceeding by attorney Edward Lear, whose address
is Century Law Group, 5200 West Century Blvd., Suite 940, Los Angeles, CA 90045.

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3. On or about August 31, 1987, the Board issued Registered Nurse License No. 415570 to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2006-202 and will expire on October 31, 2008, unless renewed.

JURISDICTION

4. Accusation No. 2006-202 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 4, 2006. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2006-202 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2006-202. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 **CULPABILITY**

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 2006-202.

4 9. Respondent agrees that her Registered Nurse License is subject to
5 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
6 Disciplinary Order below.

7 **CONTINGENCY**

8 10. This Stipulation shall be subject to approval by the Board. Respondent
9 understands and agrees that counsel for Complainant and the staff of the Board may
10 communicate directly with the Board regarding this stipulation and settlement, without notice to
11 or participation by Respondent or her counsel. By signing the stipulation, Respondent
12 understands and agrees that she may not withdraw her agreement or seek to rescind the
13 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
14 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
15 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
16 the parties, and the Board shall not be disqualified from further action by having considered this
17 matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated
19 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
20 force and effect as the originals.

21 12. In consideration of the foregoing admissions and stipulations, the parties
22 agree that the Board may, without further notice or formal proceeding, issue and enter the
23 following Disciplinary Order:

24 **DISCIPLINARY ORDER**

25 IT IS HEREBY ORDERED that Registered Nurse License No. 415570 issued to
26 Respondent Rogene Anne Bastings a.k.a. Rogene Anne Mellen a.k.a. Rogene Anne Clarkson is
27 revoked. However, the revocation is stayed and Respondent is placed on probation for three (3)
28 years on the following terms and conditions.

1 **Severability Clause.** Each condition of probation contained herein is a separate
2 and distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
7 A full and detailed account of any and all violations of law shall be reported by Respondent to
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Respondent shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent's
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
19 within no more than 15 days of any address change and shall at all times maintain an active,
20 current license status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 3. **Report in Person.** Respondent, during the period of probation, shall
24 appear in person at interviews/meetings as directed by the Board or its designated
25 representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction
28 of this probation time period. Respondent's probation is tolled, if and when she resides outside

1 of California. Respondent must provide written notice to the Board within 15 days of any change
2 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where she has ever been
5 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
6 provide information regarding the status of each license and any changes in such license status
7 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
8 new nursing license during the term of probation.

9 **5. Submit Written Reports.** Respondent, during the period of probation,
10 shall submit or cause to be submitted such written reports/declarations and verification of actions
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation
13 Program. Respondent shall immediately execute all release of information forms as may be
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency
16 in every state and territory in which she has a registered nurse license.

17 **6. Function as a Registered Nurse.** Respondent, during the period of
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered
21 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
22 work in any non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice
24 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
25 Board.

26 If Respondent has not complied with this condition during the probationary term,
27 and Respondent has presented sufficient documentation of her good faith efforts to comply with
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 7. **Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board.

9 Respondent shall provide a copy of this Decision to her employer and immediate
10 supervisors prior to commencement of any nursing or other health care related employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after she obtains any nursing or other health care related employment.
13 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
14 terminated or separated, regardless of cause, from any nursing, or other health care related
15 employment with a full explanation of the circumstances surrounding the termination or
16 separation.

17 8. **Supervision.** Respondent shall obtain prior approval from the Board
18 regarding Respondent's level of supervision and/or collaboration before commencing or
19 continuing any employment as a registered nurse, or education and training that includes patient
20 care.

21 Respondent shall practice only under the direct supervision of a registered nurse
22 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
23 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
24 are approved.

25 Respondent's level of supervision and/or collaboration may include, but is not
26 limited to the following:

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1 (a) Maximum - The individual providing supervision and/or collaboration is
2 present in the patient care area or in any other work setting at all times.

3 (b) Moderate - The individual providing supervision and/or collaboration is in
4 the patient care unit or in any other work setting at least half the hours Respondent works.

5 (c) Minimum - The individual providing supervision and/or collaboration has
6 person-to-person communication with Respondent at least twice during each shift worked.

7 (d) Home Health Care - If Respondent is approved to work in the home health
8 care setting, the individual providing supervision and/or collaboration shall have person-to-
9 person communication with Respondent as required by the Board each work day. Respondent
10 shall maintain telephone or other telecommunication contact with the individual providing
11 supervision and/or collaboration as required by the Board during each work day. The individual
12 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
13 site visits to patients' homes visited by Respondent with or without Respondent present.

14 9. **Employment Limitations.** Respondent shall not work for a nurse's
15 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
16 traveling nurse, or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting nurse
18 unless the registered nursing supervision and other protections for home visits have been
19 approved by the Board. Respondent shall not work in any other registered nursing occupation
20 where home visits are required.

21 Respondent shall not work in any health care setting as a supervisor of registered
22 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
23 nurses and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of nursing
25 or as an instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and predetermined
27 worksite(s) and shall not work in a float capacity.

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1 If Respondent is working or intends to work in excess of 40 hours per week, the
2 Board may request documentation to determine whether there should be restrictions on the hours
3 of work.

4 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
5 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
6 than six months prior to the end of her probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the
8 course(s). Respondent shall submit to the Board the original transcripts or certificates of
9 completion for the above required course(s). The Board shall return the original documents to
10 Respondent after photocopying them for its records.

11 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
12 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
13 amount of three thousand dollars (\$3,000). Respondent shall be permitted to pay these costs in a
14 payment plan approved by the Board, with payments to be completed no later than three months
15 prior to the end of the probation term.

16 If Respondent has not complied with this condition during the probationary term,
17 and Respondent has presented sufficient documentation of her good faith efforts to comply with
18 this condition, and if no other conditions have been violated, the Board, in its discretion, may
19 grant an extension of Respondent's probation period up to one year without further hearing in
20 order to comply with this condition. During the one year extension, all original conditions of
21 probation will apply.

22 12. **Violation of Probation.** If Respondent violates the conditions of her
23 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
24 aside the stay order and impose the stayed revocation of Respondent's license.

25 If during the period of probation, an accusation or petition to revoke probation has
26 been filed against Respondent's license or the Attorney General's Office has been requested to
27 prepare an accusation or petition to revoke probation against Respondent's license, the
28 probationary period shall automatically be extended and shall not expire until the accusation or

petition has been acted upon by the Board.

13. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

14. **Physical Examination.** Within 45 days of the effective date of this Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the Respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the Respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board.

1 During this period of suspension, Respondent shall not engage in any practice for which a license
2 issued by the Board is required until the Board has notified Respondent that a medical
3 determination permits Respondent to resume practice. This period of suspension will not apply
4 to the reduction of this probationary time period.

5 If Respondent fails to have the above assessment submitted to the Board within
6 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
7 practice until notified by the Board. This period of suspension will not apply to the reduction of
8 this probationary time period. The Board may waive or postpone this suspension only if
9 significant, documented evidence of mitigation is provided. Such evidence must establish good
10 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
11 provided. Only one such waiver or extension may be permitted.

12 **15. Participate in Treatment/Rehabilitation Program for Chemical**
13 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
14 period or shall have successfully completed prior to commencement of probation a Board-
15 approved treatment/rehabilitation program of at least six months duration. As required, reports
16 shall be submitted by the program on forms provided by the Board. If Respondent has not
17 completed a Board-approved treatment/rehabilitation program prior to commencement of
18 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
19 a program. If a program is not successfully completed within the first nine months of probation,
20 the Board shall consider Respondent in violation of probation.

21 Based on Board recommendation, each week Respondent shall be required to
22 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
23 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
24 by the Board. If a nurse support group is not available, an additional 12-step meeting or
25 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
26 such attendance to the Board during the entire period of probation. Respondent shall continue
27 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
28 mental health examiner and/or other ongoing recovery groups.

1 16. **Abstain from Use of Controlled Substances and Psychotropic (Mood-**
2 **Altering) Drugs.** Respondent shall completely abstain from the possession, injection or
3 consumption by any route of all controlled substances and all psychotropic (mood altering)
4 drugs, including alcohol, except when the same are ordered by a health care professional legally
5 authorized to do so as part of documented medical treatment. Respondent shall have sent to the
6 Board, in writing and within fourteen (14) days, by the prescribing health professional, a report
7 identifying the medication, dosage, the date the medication was prescribed, the Respondent's
8 prognosis, the date the medication will no longer be required, and the effect on the recovery plan,
9 if appropriate.

10 Respondent shall identify for the Board a single physician, nurse practitioner or
11 physician assistant who shall be aware of Respondent's history of substance abuse and will
12 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
13 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
14 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
15 condition. If any substances considered addictive have been prescribed, the report shall identify a
16 program for the time limited use of any such substances.

17 The Board may require the single coordinating physician, nurse practitioner, or
18 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
19 addictive medicine.

20 17. **Submit to Tests and Samples.** Respondent, at her expense, shall
21 participate in a random, biological fluid testing or a drug screening program which the Board
22 approves. The length of time and frequency will be subject to approval by the Board.
23 Respondent is responsible for keeping the Board informed of Respondent's current telephone
24 number at all times. Respondent shall also ensure that messages may be left at the telephone
25 number when she is not available and ensure that reports are submitted directly by the testing
26 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
27 to the Board by the program and Respondent shall be considered in violation of probation.

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1 In addition, Respondent, at any time during the period of probation, shall fully
2 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
3 tests and samples as the Board or its representatives may require for the detection of alcohol,
4 narcotics, hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized
6 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
7 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
8 from practice pending the final decision on the petition to revoke probation or the accusation.
9 This period of suspension will not apply to the reduction of this probationary time period.

10 If Respondent fails to participate in a random, biological fluid testing or drug
11 screening program within the specified time frame, Respondent shall immediately cease practice
12 and shall not resume practice until notified by the Board. After taking into account documented
13 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
14 Board may suspend Respondent from practice pending the final decision on the petition to
15 revoke probation or the accusation. This period of suspension will not apply to the reduction of
16 this probationary time period.

17 18. **Mental Health Examination.** Respondent shall, within 45 days of the
18 effective date of this Decision, have a mental health examination including psychological testing
19 as appropriate to determine her capability to perform the duties of a registered nurse. The
20 examination will be performed by a psychiatrist, psychologist or other licensed mental health
21 practitioner approved by the Board. The examining mental health practitioner will submit a
22 written report of that assessment and recommendations to the Board. All costs are the
23 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
24 result of the mental health examination will be instituted and followed by Respondent.

25 If Respondent is determined to be unable to practice safely as a registered nurse,
26 the licensed mental health care practitioner making this determination shall immediately notify
27 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
28 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease

1 practice and may not resume practice until notified by the Board. During this period of
2 suspension, Respondent shall not engage in any practice for which a license issued by the Board
3 is required, until the Board has notified Respondent that a mental health determination permits
4 Respondent to resume practice. This period of suspension will not apply to the reduction of this
5 probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within
7 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
8 practice until notified by the Board. This period of suspension will not apply to the reduction of
9 this probationary time period. The Board may waive or postpone this suspension only if
10 significant, documented evidence of mitigation is provided. Such evidence must establish good
11 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
12 provided. Only one such waiver or extension may be permitted.

13 **19. Therapy or Counseling Program.** Respondent, at her expense, shall
14 participate in an on-going counseling program until such time as the Board releases her from this
15 requirement and only upon the recommendation of the counselor. Written progress reports from
16 the counselor will be required at various intervals.

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ATTY GENERAL OFFICE

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Edward Lear. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 12-04-06


 ROGENE ANNE EASTINGS A.K.A. ROGENE ANNE
 MELLEN A.K.A. ROGENE ANNE CLARKSON
 Respondent

I have read and fully discussed with Respondent Rogene Anne Eastings a.k.a. Rogene Anne Mellen a.k.a. Rogene Anne Clarkson the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/4/06


 EDWARD O. LEAR
 Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: 12/4/06

BILL LOCKYER, Attorney General
 of the State of California

GLORIA A. BARRIOS
 Supervising Deputy Attorney General


 LINDA L. SUN
 Deputy Attorney General

Attorneys for Complainant

DOI letter ID: LA2005001173
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Exhibit A
Accusation No. 2006-202

BILL LOCKYER, Attorney General
of the State of California
LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-6375
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2006-202

ROGENE ANNE BASTINGS
a.k.a. ROGENE ANNE MELLEN
a.k.a. ROGENE ANNE CLARKSON
20016 Fallon Avenue
Lakewood, CA 90715

A C C U S A T I O N

Registered Nurse License No. 415570

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs (Board).

2. On or about August 31, 1987, the Board issued Registered Nurse License No. 415570 to Rogene Anne Bastings a.k.a. Rogene Anne Mellen a.k.a. Rogene Anne Clarkson (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2006, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as

1 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
2 injurious to himself or herself, any other person, or the public or to the extent that such use
3 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
4 license.

5 "(c) Be convicted of a criminal offense involving the prescription, consumption,
6 or self-administration of any of the substances described in subdivisions (a) and (b) of this
7 section, or the possession of, or falsification of a record pertaining to, the substances described in
8 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
9 thereof.

10 "(d) Be committed or confined by a court of competent jurisdiction for
11 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)
12 and (b) of this section, in which event the court order of commitment or confinement is prima
13 facie evidence of such commitment or confinement.

14 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
15 entries in any hospital, patient, or other record pertaining to the substances described in
16 subdivision (a) of this section."

17 8. California Code of Regulations, title 16, section 1442, states:

18 "As used in Section 2761 of the code, 'gross negligence' includes an extreme
19 departure from the standard of care which, under similar circumstances, would have ordinarily
20 been exercised by a competent registered nurse. Such an extreme departure means the repeated
21 failure to provide nursing care as required or failure to provide care or to exercise ordinary
22 precaution in a single situation which the nurse knew, or should have known, could have
23 jeopardized the client's health or life."

24 9. Section 490 states:

25 "A board may suspend or revoke a license on the ground that the licensee has been
26 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
27 of the business or profession for which the license was issued. A conviction within the meaning
28 of this section means a plea or verdict of guilty or a conviction following a plea of nolo

1 contendere. Any action which a board is permitted to take following the establishment of a
2 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
3 been affirmed on appeal, or when an order granting probation is made suspending the imposition
4 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
5 Penal Code."

6 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
7 request the administrative law judge to direct a licensee found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 FIRST CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct - False Records)

12 11. Respondent is subject to disciplinary action under sections 2570 and 2762,
13 subdivision (e), in that on or between January 1, 2003 and August 27, 2003, while working as a
14 registered nurse at Kaiser Permanente Bellflower Medical Center, Bellflower, California
15 (Kaiser), Respondent made false, grossly incorrect, or grossly inconsistent entries in the hospital
16 Omnicell Medication Dispensing System, as follows:

17 a. Respondent removed medications for patients who had already received
18 their medications and accounted for the removal of the medications as wastage in approximately
19 eighty-three (83) instances.

20 b. Respondent was observed using a colleague's name to enter the Omnicell
21 system for wasting a medication already administered by the colleague.

22 c. Respondent, after removing a History and Physical record documenting
23 ordered medications for a patient and being informed by one colleague that the patient's
24 medication had already been administered, withdrew the ordered medication and asked a
25 different colleague to sign off the wastage.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 12. Respondent is subject to disciplinary action under 2570 and 2761,
4 subdivisions (a)(1), in conjunction with California Code of Regulations, title 16, section 1442, in
5 that on or between January 1, 2003 and August 27, 2003, while working as a registered nurse at
6 Kaiser, Respondent committed numerous acts of gross negligence when she failed to follow the
7 hospital/universal standard for wasting medication and was unable to adequately account for the
8 discrepancies. The circumstances are as set forth in paragraph 11 above.

9 THIRD CAUSE FOR DISCIPLINE

10 (Convictions of Substantially Related Crimes)

11 13. Respondent is subject to disciplinary action under sections 2570, 2761,
12 subdivision (f), and 490, on the grounds that Respondent was convicted of crimes substantially
13 related to the qualifications, functions, or duties of a registered nurse. The circumstances are as
14 follows:

15 a. DUI

16 On or about June 27, 2002, in a criminal proceeding entitled *The People of the*
17 *State of California v. Rogene Anne Bastings* in Orange County Superior Court, Case
18 No. 02NM05556, Respondent was convicted on a plea of guilty for violating Vehicle Code
19 section 23152(a) (driving under the influence of alcohol), a misdemeanor. The Court ordered
20 Respondent to serve 45 days in jail, attend an 18 month multiple offender program, and pay fines
21 and penalties.

22 The circumstances surrounding the conviction are that on or about April 14, 2002,
23 California Highway Patrol officers arrested Respondent after she was observed driving her
24 vehicle weaving across lanes and on the right shoulder. Respondent's tested blood alcohol
25 content level was 0.144% and 0.148%.

26 b. RECKLESS DRIVING

27 On or about June 22, 2000, in a criminal proceeding entitled *The People of the*
28 *State of California v. Rogene Anne Bastings* in Orange County Superior Court, Case

1 No. 00NM04417, Respondent was convicted on a plea of guilty for violating Vehicle Code
2 section 23103 (reckless driving), a misdemeanor. The Court ordered Respondent to attend a
3 three-month first offender program, and pay fines and penalties.

4 The circumstances surrounding the conviction are that on or about February 11,
5 2000, Brea Police Department officers arrested Respondent after she was observed driving her
6 vehicle drifting side to side within the lane and traveling at a slow rate of speed. Respondent's
7 tested blood alcohol content level was 0.092%.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Dangerous Use of Alcohol)

10 14. Respondent is subject to disciplinary action under sections 2750 and 2762,
11 subdivision (b), on the grounds of unprofessional conduct, in that on or about February 11, 2000
12 and April 14, 2002, Respondent administered to herself alcoholic beverages to an extent or in a
13 manner dangerous or injurious to herself, any person, or the public while operating a vehicle.
14 The circumstances are as set forth in paragraph 13 above.

15 FIFTH CAUSE FOR DISCIPLINE

16 (Convictions Involving Self-Administration of Alcohol)

17 15. Respondent is subject to disciplinary action under sections 2750 and 2762,
18 subdivision (c), on the grounds of unprofessional conduct, in that on or about June 22, 2000 and
19 June 27, 2002, Respondent sustained convictions involving the consumption or self-
20 administration of alcohol. The circumstances are as set forth in paragraph 13 above.

21 SIXTH CAUSE FOR DISCIPLINE

22 (Commitment for Intemperate Use of Alcohol)

23 16. Respondent is subject to disciplinary action under sections 2750 and 2762,
24 subdivision (d), on the grounds of unprofessional conduct, in that on or about June 27, 2002,
25 Respondent was committed or confined by a court of competent jurisdiction for intemperate use
26 of or addiction to the use of alcohol.

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1 SEVENTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 17. Respondent is subject to disciplinary action under sections 2750 and 2761,
4 subdivision (a), in that Respondent committed acts of unprofessional conduct, as more fully
5 described above in paragraphs 11 through 16, inclusive.

6 PRAYER


7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nurse License No. 415570, issued to
10 Rogene Anne Bastings a.k.a. Rogene Anne Mellen a.k.a. Rogene Anne Clarkson.

11 2. Ordering Rogene Anne Bastings to pay the Board of Registered Nursing
12 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;

14 3. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 9/27/06

17
18 
19 RUTH ANN TERRY, M.P.H., R.N.
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California

24 Complainant

25 LA2005601173
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27 3/30/2006dmc
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